

111TH CONGRESS
2D SESSION

S. 3452

To designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, MAY 26), 2010

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To designate the Valles Caldera National Preserve as a unit of the National Park System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Valles Caldera Na-
5 tional Preserve Management Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ELIGIBLE EMPLOYEE.**—The term “eligible
9 employee” means a person that, on the date of en-

1 actment of this Act, was a full-time or part-time an-
 2 nual employee of the Trust.

3 (2) FUND.—The term “Fund” means the
 4 Valles Caldera Fund established by section
 5 106(h)(2) of the Valles Caldera Preservation Act (16
 6 U.S.C. 698v-4(h)(2)).

7 (3) PRESERVE.—The term “Preserve” means
 8 the Valles Caldera National Preserve in the State.

9 (4) SECRETARY.—The term “Secretary” means
 10 the Secretary of the Interior.

11 (5) STATE.—The term “State” means the State
 12 of New Mexico.

13 (6) TRUST.—The term “Trust” means the
 14 Valles Caldera Trust established by section 106(a)
 15 of the Valles Caldera Preservation Act (16 U.S.C.
 16 698v-4(a)).

17 **SEC. 3. VALLES CALDERA NATIONAL PRESERVE.**

18 (a) DESIGNATION AS UNIT OF THE NATIONAL PARK
 19 SYSTEM.—To protect and preserve the fish, wildlife, wa-
 20 tershed, natural, scientific, scenic, geologic, historic, cul-
 21 tural, archeological, and recreational values of the area,
 22 the Valles Caldera National Preserve is designated as a
 23 unit of the National Park System.

24 (b) MANAGEMENT.—

1 (1) APPLICABLE LAW.—The Secretary shall ad-
2 minister the Preserve in accordance with—

3 (A) this Act; and

4 (B) the laws generally applicable to units
5 of the National Park System, including—

6 (i) the National Park Service Organic
7 Act (16 U.S.C. 1 et seq.); and

8 (ii) the Act of August 21, 1935 (16
9 U.S.C. 461 et seq.).

10 (2) INTERIM MANAGEMENT.—

11 (A) IN GENERAL.—Beginning on the date
12 of enactment of this Act, the Secretary shall
13 have sole management responsibility for the
14 Preserve.

15 (B) MEMORANDUM OF AGREEMENT.—Not
16 later than 30 days after the date of enactment
17 of this Act, the Secretary and the Trust shall
18 enter into a memorandum of agreement to fa-
19 cilitate the orderly transfer to the Secretary of
20 the administration of the Preserve.

21 (C) EXISTING MANAGEMENT PLANS.—Not-
22 withstanding the repeal made by section 5(a),
23 until the date on which the Secretary completes
24 a management plan for the Preserve in accord-
25 ance with paragraph (4), the Secretary may ad-

1 minister the Preserve in accordance with any
 2 management activities or plans adopted by the
 3 Trust under the Valles Caldera Preservation
 4 Act (16 U.S.C. 698v et seq.), to the extent the
 5 activities or plans are consistent with paragraph
 6 (1).

7 (3) MANAGEMENT COORDINATION.—To the
 8 maximum extent practicable, the Secretary shall co-
 9 ordinate the management and operations of the Pre-
 10 serve with the Bandelier National Monument.

11 (4) MANAGEMENT PLAN.—

12 (A) IN GENERAL.—Not later than 3 fiscal
 13 years after the date on which funds are made
 14 available to implement this subsection, the Sec-
 15 retary shall prepare a management plan for the
 16 Preserve.

17 (B) APPLICABLE LAW.—The management
 18 plan shall be prepared in accordance with—

19 (i) section 12(b) of Public Law 91–
 20 383 (commonly known as the “National
 21 Park Service General Authorities Act”)
 22 (16 U.S.C. 1a–7(b)); and

23 (ii) any other applicable laws.

24 (C) CONSULTATION.—The management
 25 plan shall be prepared in consultation with—

- 1 (i) State and local governments;
- 2 (ii) Indian tribes and pueblos, includ-
- 3 ing the Pueblos of Jemez, Santa Clara,
- 4 and San Ildefonso; and
- 5 (iii) the public.

6 (c) ACQUISITION OF LAND.—

7 (1) IN GENERAL.—The Secretary may acquire
8 land and interests in land within the boundaries of
9 the Preserve by—

10 (A) purchase with donated or appropriated
11 funds;

12 (B) donation; or

13 (C) transfer from another Federal agency.

14 (2) ADMINISTRATION OF ACQUIRED LAND.—On
15 acquisition of any land or interests in land under
16 paragraph (1), the acquired land or interests in land
17 shall be administered as part of the Preserve.

18 (d) SCIENCE AND EDUCATION PROGRAM.—

19 (1) IN GENERAL.—The Secretary shall—

20 (A) until the date on which a management
21 plan is completed in accordance with subsection
22 (b)(4), carry out the science and education pro-
23 gram for the Preserve established by the Trust;
24 and

1 (B) establish a science and education pro-
 2 gram for the Preserve that—

3 (i) shall be carried out by the Sec-
 4 retary beginning on the date on which a
 5 management plan is completed in accord-
 6 ance with subsection (b)(3);

7 (ii) allows for research and interpreta-
 8 tion of the nationally significant geologic
 9 and other scientific features of the Pre-
 10 serve; and

11 (iii) provides for improved methods of
 12 ecological restoration and science-based
 13 adaptive management of the Preserve.

14 (2) SCIENCE AND EDUCATION CENTER.—The
 15 Secretary may establish a science and education cen-
 16 ter outside the boundaries of the Preserve to pro-
 17 mote research and education of the natural and cul-
 18 tural resources of the Preserve.

19 (e) GRAZING.—The Secretary may allow the grazing
 20 of livestock within the Preserve to continue, consistent
 21 with this Act—

22 (1) in areas of the Preserve in which grazing
 23 was permitted during the grazing season preceding
 24 the date of enactment of this Act; and

1 (2) to the extent the use furthers scientific re-
2 search or interpretation of the ranching history of
3 the Preserve.

4 (f) FISH AND WILDLIFE.—

5 (1) IN GENERAL.—The Secretary shall permit
6 hunting and fishing on land and waters within the
7 Preserve in accordance with applicable Federal and
8 State laws, except that the Secretary may, in con-
9 sultation with the New Mexico Department of Game
10 and Fish, designate zones in which, and establish
11 periods during which, no hunting or fishing shall be
12 permitted for reasons of public safety, administra-
13 tion, the protection of wildlife and wildlife habitats,
14 or public use and enjoyment.

15 (2) STATE AUTHORITY.—Nothing in this Act
16 affects the responsibilities of the State with respect
17 to fish and wildlife in the State.

18 (g) WITHDRAWAL.—Subject to valid existing rights,
19 all land and interests in land within the boundaries of the
20 Preserve are withdrawn from—

21 (1) entry, disposal, or appropriation under the
22 public land laws;

23 (2) location, entry, and patent under the mining
24 laws; and

1 (3) operation of the mineral leasing laws, geo-
2 thermal leasing laws, and mineral materials laws.

3 (h) VOLCANIC DOMES AND OTHER PEAKS.—

4 (1) IN GENERAL.—For the purposes of pre-
5 serving the natural, cultural, religious, and historic
6 resources of the volcanic domes and other peaks in
7 the Preserve described in paragraph (2) and except
8 as provided in paragraph (3), within the area of the
9 domes and peaks above 9,250 feet in elevation—

10 (A) no roads or facilities shall be con-
11 structed; and

12 (B) no motorized access shall be allowed.

13 (2) DESCRIPTION OF VOLCANIC DOMES.—The
14 volcanic domes and other peaks referred to in para-
15 graph (1) are—

16 (A) Redondo Peak;

17 (B) Redondito;

18 (C) South Mountain;

19 (D) San Antonio Mountain;

20 (E) Cerro Seco;

21 (F) Cerro San Luis;

22 (G) Cerros Santa Rosa;

23 (H) Cerros del Abrigo;

24 (I) Cerro del Medio;

25 (J) Rabbit Mountain;

- 1 (K) Cerro Grande;
- 2 (L) Cerro Toledo;
- 3 (M) Sierra de los Valles; and
- 4 (N) Cerros de los Posos.

5 (3) EXCEPTION.—Paragraph (1) shall not
 6 apply in cases in which the construction or motor-
 7 ized access is necessary for administrative purposes
 8 (including measures required in emergencies to pro-
 9 tect the health and safety of persons in the area).

10 (i) TRADITIONAL CULTURAL AND RELIGIOUS
 11 SITES.—

12 (1) IN GENERAL.—The Secretary, in consulta-
 13 tion with Indian tribes and pueblos, shall—

14 (A) ensure the protection of traditional
 15 cultural and religious sites in the Preserve; and

16 (B) provide access to the sites described in
 17 subparagraph (A) by members of Indian tribes
 18 or pueblos for traditional cultural and cus-
 19 tomary uses, in accordance with Public Law
 20 95–341 (commonly known as the “American In-
 21 dian Religious Freedom Act”) (42 U.S.C.
 22 1996).

23 (j) TEMPORARY CLOSURES.—In accordance with
 24 Public Law 95–341 (commonly known as the “American
 25 Indian Religious Freedom Act”) (42 U.S.C. 1996), the

1 Secretary, on request of an Indian tribe or pueblo, may
 2 temporarily close to general public use 1 or more specific
 3 areas of the Preserve to protect traditional cultural and
 4 customary uses in the area by members of the Indian tribe
 5 or pueblo.

6 (k) CALDERA RIM TRAIL.—

7 (1) IN GENERAL.—Not later than 3 years after
 8 the date of enactment of this Act, the Secretary and
 9 the Secretary of Agriculture, in consultation with In-
 10 dian tribes, pueblos, and the public, shall study the
 11 feasibility of establishing a hiking trail along the rim
 12 of the Valles Caldera on—

13 (A) land within the Preserve; and

14 (B) National Forest System land that is
 15 adjacent to the Preserve.

16 (2) SANTA CLARA PUEBLO.—On request of
 17 Santa Clara Pueblo, the Secretary and the Secretary
 18 of Agriculture shall seek to enter into an agreement
 19 with the Santa Clara Pueblo with respect to the
 20 Caldera Rim Trail that provides for the protection
 21 of the privacy of the Pueblo with respect to, and the
 22 continuity of, traditional cultural and religious ac-
 23 tivities on the Santa Clara Indian Reservation.

24 (3) PROHIBITION ON MOTORIZED ACCESS.—The
 25 Secretary shall maintain prohibitions on the use of

1 motorized or mechanized travel on Preserve land lo-
2 cated adjacent to the Santa Clara Indian Reserva-
3 tion, to the extent the prohibition was in effect on
4 the date of enactment of this Act.

5 **SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

6 (a) IN GENERAL.—Administrative jurisdiction over
7 the Preserve is transferred from the Secretary of Agri-
8 culture and the Trust to the Secretary, to be administered
9 as a unit of the National Park System, in accordance with
10 section 3.

11 (b) EXCLUSION FROM SANTA FE NATIONAL FOR-
12 EST.—The boundaries of the Santa Fe National Forest
13 are modified to exclude the Preserve.

14 (c) VALLES CALDERA TRUST.—

15 (1) TERMINATION.—The Trust shall terminate
16 180 days after the date of enactment of this Act un-
17 less the Secretary determines that the termination
18 date should be extended to facilitate the transitional
19 management of the Preserve.

20 (2) ASSETS AND LIABILITIES.—

21 (A) ASSETS.—On termination of the
22 Trust, all assets of the Trust shall be trans-
23 ferred to the Secretary.

24 (B) LIABILITIES.—

1 (i) IN GENERAL.—On termination of
 2 the Trust, the Secretary shall assume all
 3 liabilities of the Trust.

4 (ii) NEW LIABILITIES.—

5 (I) BUDGET.—Not later than 30
 6 days after the date of enactment of
 7 this Act, the Secretary and the Trust
 8 shall prepare a budget for the interim
 9 management of the Preserve.

10 (II) WRITTEN CONCURRENCE RE-
 11 QUIRED.—The Trust shall not incur
 12 any new liabilities not authorized in
 13 the budget prepared under subclause
 14 (I) without the written concurrence of
 15 the Secretary.

16 (3) PERSONNEL.—

17 (A) HIRING.—The Secretary and the Sec-
 18 retary of Agriculture may hire employees of the
 19 Trust on a noncompetitive basis for comparable
 20 positions at the Preserve or other units of the
 21 National Park System or National Forest Sys-
 22 tem in the State.

23 (B) SALARY.—Any employees hired from
 24 the Trust under subparagraph (A) shall be sub-
 25 ject to the provisions of chapter 51, and sub-

1 chapter III of chapter 53, title 5, United States
2 Code, relating to classification and General
3 Schedule pay rates.

4 (C) INTERIM RETENTION OF ELIGIBLE EM-
5 PLOYEES.—For a period of not less than 180
6 days beginning on the date of enactment of this
7 Act, all eligible employees of the Trust shall
8 be—

9 (i) retained in the employment of the
10 Trust;

11 (ii) considered to be placed on detail
12 to the Secretary; and

13 (iii) subject to the direction of the
14 Secretary.

15 (D) TERMINATION FOR CAUSE.—Nothing
16 in this paragraph precludes the termination of
17 employment of an eligible employee for cause
18 during the period described in subparagraph
19 (C).

20 (4) RECORDS.—The Secretary shall have access
21 to all records of the Trust pertaining to the manage-
22 ment of the Preserve.

23 (5) VALLES CALDERA FUND.—

1 (A) IN GENERAL.—Effective on the date of
 2 enactment of this Act, the Secretary shall as-
 3 sume the powers of the Trust over the Fund.

4 (B) AVAILABILITY AND USE.—Any
 5 amounts in the Fund as of the date of enact-
 6 ment of this Act shall be available to the Sec-
 7 retary for use, without further appropriation,
 8 for the management of the Preserve.

9 **SEC. 5. REPEAL OF VALLES CALDERA PRESERVATION ACT.**

10 (a) REPEAL.—On the termination of the Trust, the
 11 Valles Caldera Preservation Act (16 U.S.C. 698v et seq.)
 12 is repealed.

13 (b) EFFECT ON FUND.—Notwithstanding the repeal
 14 made by subsection (a), the Fund shall not be terminated
 15 until all amounts in the Fund have been expended by the
 16 Secretary.

17 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
 19 as are necessary to carry out this Act.

○